



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 21 2002

Sergeant Eric C. Adair
New York State Police
Division Headquarters, Bldg. #22
1220 Washington Avenue
Albany, New York 12226-2252

Ref. No. 02-0257

Dear Sergeant Adair:

This responds to your September 25, 2002 letter requesting a written clarification on the identification plate requirements for MC-331 cargo tanks as they apply to the vehicle manufacturer information as contained in the Hazardous Materials Regulations (49 CFR 171-180; HMR).

Specifically you ask if the requirement in § 178.337-17 to mark the "vehicle manufacturer" and "vehicle manufacturer's serial number" on the identification plate applies to a person who assembles a cargo tank motor vehicle by removing an MC 331 cargo tank from one chassis and attaching it to another vehicle chassis by banding or strapping, without welding to the tank.

The answer is yes. As defined in § 178.320(a), a manufacturer is defined as "any person engaged in the manufacture of a DOT specification cargo tank, cargo tank motor vehicle, or cargo tank equipment which forms part of the cargo tank wall. The term includes attaching the cargo tank to a motor vehicle or to a motor vehicle suspension component which involves welding on the cargo tank wall. A manufacturer shall register with the Department in accordance with subpart F of part 107."

Based on this definition, a person who removes an existing MC 331 cargo tank from a chassis and places it on a new chassis, by means of strapping or other welding or non-welding methods, meets the definition of a manufacturer and must mark the identification plate accordingly. The rules of construction, in § 171.9 of the HMR, states "the word 'includes' is used as a word of inclusion not limitation.". Thus, the second sentence of the definition is an "inclusive" statement, and is not intended to exclude non-welding methods of attaching a cargo tank to a motor vehicle.



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Manufacturers must register and meet all other applicable requirements for the manufacture of cargo tanks or cargo tank motor vehicles, including having designs approved by a design-certifying engineer as appropriate.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Delmer F. Billings". The signature is fluid and cursive, with the first name "Delmer" and last name "Billings" clearly distinguishable.

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards

cc: FMCSA

September 25, 2002

Mr. Delmer Billings
Chief, Standards Development DHM-11
United States Department of Transportation
Research and Special Programs Administration
400 7th Street, S.W.
Washington, D.C. 20590

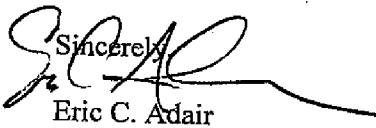
Dear Mr. Billings,

This letter is to request a written clarification on the identification plate requirements for MC-331 cargo tanks as it applies to the vehicle manufacturer information as contained in 49 CFR 178.337-17.

Does the requirement in 49CFR178.337-17 to mark the "vehicle manufacturer" and "vehicle manufacturer's serial number" on the identification plate apply to the person who assembles a MC-331 cargo tank motor vehicle by attaching a cargo tank to a motor vehicle chassis without welding to the tank wall?

Does this requirement extend to the removal of a MC-331 cargo tank from an existing chassis and attaching it to a new motor vehicle chassis, the process commonly referred to as "re-barreling"?

Thank you for your consideration and clarification of this issue.

Sincerely,

Eric C. Adair
Sergeant
New York State Police

Billings
§178.337-17
Marking
02-0257